IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1257 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEEPAKKUMAR KANTILAL TRIVEDI & 3 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR UI VYAS for Applicant(s) : 1 - 4.
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR YOGESH S LAKHANI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/09/2007
ORAL JUDGMENT

By way of the petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure the

petitioners original-accused have prayed for an appropriate order of quashing and setting aside the impugned complaint being Criminal Inquiry Case No. 586 of 1997 pending in the Court of learned JMFC, Rajkot. The complaint has been filed by the respondent No.2 herein wife of the petitioner No.1 in the Court of learned JMFC, Rajkot being Criminal Enquiry Case No. 586 of 1997 against the petitioners for the offences under Sections 498, 504, 506(2) and 114 of the IPC. In the said complaint, the learned Magistrate passed an order for enquiry under Section 156(3) of the Cr.P.C., and therefore the petitioners have preferred the present petition for the aforesaid relief. As during the pendency of the present proceedings the parties have settled the dispute and it is agreed by and between the parties to get divorce by consent and a Memorandum of Understanding and purshis is also produced by the respective parties before this Court which are directed to be taken on record, and proceedings are already pending before the

competent court, this Court is not further narrating the facts in detail.

2. The learned advocates appearing on behalf of the respective parties have requested to pass appropriate order of quashing and setting aside the impugned complaint as parties have settled the dispute amicably whereby the petitioner No.1 herein and the original-complainant have agreed to get consent divorce. In view of the subsequent development there are bleak chances of conviction and continuation of criminal proceedings any further would not be in the interests of justice and unnecessary harassment to the parties. Under the circumstances, this is a fit case to exercise the powers under Section 482 of the Cr.P.C.

3. For the reasons stated above and in view of the subsequent development, the impugned complaint being Criminal Enquiry Case No. 586 of 1997 pending before the Court of learned JMFC,

Rajkot, is hereby quashed and set aside. Rule is made absolute accordingly. Ad-interim relief stands vacated forthwith. At this stage, learned counsel appearing on behalf of respondent No.2, original-complainant has requested to reserve liberty to move this Court in case of difficulty and/or non-compliance of any of the provisions of the Memorandum of Understanding. Liberty is accordingly reserved.

[M.R. Shah, J.]

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